IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 17957 of 2004

Between:

Sardar Khan S/o Ameer Khan Saheb

R/o C/o A. Nancharaiah Post: Gudur-521149, Tq. Machilipatnam,
Krishna District

... PETITIONER

AND

1 The Labour Court Guntur, rep by its Presiding Officer
2 APSRTC, rep by Vice-Chairman-cum-Managing Director, Musheerabad,

Hyderabad

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate Writ, order or orders, Direction or Directions to quash the order of the 1st Respondent in C.F.R. No. 2502/2004 dated 23-9-2004 and to direct the 1st Respondent to adjudicate the main petition filed by the petitioner on merits in accordance with law

Counsel for the Petitioner: MR.V.SRINIVAS

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: MR.V.T.M.PRASAD SC FOR APSRTC

The Court made the following order:

ORDER:

The petitioner was appointed as a conductor in the respondent corporation on 18.10.1969. He was removed from services on 30.03.1971. He was reinstated into service in pursuance of an order dated 03.05.1991 of the High Court. He was again removed from services on 24.08.1992 and was reinstated on 13.11.1995. On 14.05.2001 he submitted his resignation and ultimately it was accepted on 04.12.2001.

The petitioner contends that from the date of reinstatement in 1991 his pay fixation has not been done and he was put to monetary loss to an extent of Rs.2,00,000/-. He filed an application before the first respondent under Section 33-C (2) of the Industrial Disputes Act, 1947 (for short 'the Act') seeking recovery of the said amount from the respondent corporation. The first respondent dismissed the said application on 23.09.2004 in C.F.R.No.2502/2004 on the ground that the same is not maintainable as he resigned the job in the year 2001. The petitioner being aggrieved by the order of the first respondent filed this writ petition praying to quash the order of the first respondent dated 23.09.2004 and to direct the first respondent to

adjudicate the main petition on merits in accordance with law.

The learned counsel for the petitioner drew the attention of this Court to a judgment of a Division Bench of this Court in WP.No.3974 of 1976 dated 08.12.1979 in **REGIONAL DIRECTOR E.S.I CORPORATION v. D. LAKSHAMANA SASTRY & ANOTHER** wherein the Division Bench while considering the scope of Section 33-C (2) of the Act held as follows:

> "Petition filed by the employee who voluntarily resigned the post claiming certain amount as difference of salary and incremental arrears from the Employees State Insurance Corporation is maintainable"

The principle laid down by the Division Bench of this Court is applicable to this case also. Therefore, it is a fit case for adjudication. The order of the first respondent dated 23.09.2004 in C.F.R.No.2502/2004 is set aside. The first respondent is directed to take the application under Section
33-C (2) into file, make necessary enquiry and pass appropriate orders according to the provisions of the Act.

The writ petition is accordingly allowed. No order as to costs.

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Dr. G. YETHIRAJULU, J

October 5, 2004

Dsk

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupat, The Chief Justice on this

Tuesday the Fifth Day of October Two Thousand and Four.

To

1 The Presiding Officer, Labour Court, Guntur

2 The Vice-Chairman-cum-Managing Director, APSRTC, Musheerabad, Hyderabad

3 Two CCs to GP For Labour, High Court Buildings, Hyderabad (OUT)

4 Two CD Copies.